

REMARKS

Favorable reconsideration is respectfully requested.

The claims are 1 to 9.

The above amendment is responsive to points set forth in the Official Action.

With regard to Official Action paragraph 1, an abstract has been provided by the above amendment.

With regard to Official Action paragraph 2, it is improper to amend the first sentence of the specification to reference the international application. See MPEP § 1893.03(c) on page 1800-199, bottom left column.

With regard to Official Action paragraph 4, claims 1 to 9 have been rejected as indefinite.

In reply, claim 1 has been corrected to avoid indefiniteness.

In this regard, the above amendment amends the term in claim 1 "following a) and b)" to --following a) or b)--.

In step a) the hemiacetal of the formula



is first transesterified, whereby the group R is changed into another alkyl group, and after the transesterification, the one acetal group has to be cleaved, in order to obtain the free glyoxylic ester.

So step a) does not result in the formation of an acetal, but the starting product has already one acetal group.

From this it is also clear for both steps what the desired product is, namely the free glyoxylic ester, which is only obtained by cleavage of one acetal group (after step a) or two acetal groups (full acetal according to step b).

Claims 1 to 9 have been rejected under 35 U.S.C. 103(a) as being unpatentable over Krasik, *Tetrahedron Letters* (1998), Vol. 39, pages 4223-4226 in combination with Algieri et al. (U.S. 4,927,968) and Schaefer et al. (U.S. 5,380,794).

This rejection is respectfully traversed.

According to *Tetrahedron Letters*, Vol. 39(24), pages 4223-4226 (D1) the transesterification of glyoxylic ethyl ester diethyl acetal to form menthyl glyoxylate diethyl acetal is described, whereas according to the present claim 1, the preparation of glyoxylic esters starting from the glyoxylic ester hemiacetal, which is in the case of process 1b), first converted into the corresponding acetal, is claimed.

Therefore the starting material as well as the desired end product is unobviously different from D1.

The yield according to D1 is 86%, whereas the yield of the step 1b) transesterification, after converting the hemiacetal into the acetal according to the present invention, leads to the desired product (acetal) in a yield of 98% (see Example 1b).

There is absolutely no description or suggestion in D1 that using glyoxylic ester hemiacetal as a starting compound would lead to the desired products in much higher yields and in a cheaper and easier way than described in D1.

Therefore the claimed process according to the present application is not only new but also unobvious, even in view of D1.

Regarding Schaefer and Algieri:

Applicants have already described in the application that the conversion of the hemiacetal into the corresponding full acetal is done in a manner known per se by means of an alcohol. Applicants also agree that it was known that aldehydes are prepared from the acid hydrolysis of acetals. This was not the invention.

The invention seeks, as discussed above, to use glyoxylic acid hemiacetal as starting material, which is much cheaper, than, for example the starting material used in D1 and further leads to higher yields than thought by the state of the art and allows an easier work up. This was also not obvious in view of the combined references.

For the foregoing reasons, it is apparent that the rejection on prior art is untenable and should be withdrawn.

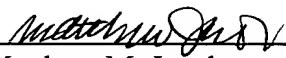
No further issues remaining, allowance of this application is respectfully requested.

If the Examiner has any comments or proposals for expediting prosecution, please contact undersigned at the telephone number below.

Respectfully submitted,

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